

Appl. No. 09/898,505  
Amtd. Dated October 24, 2003  
Reply to Office action of July 11, 2003

### REMARKS/ARGUMENTS

In the specification, certain paragraphs on pages 7, 9 and 10 have been amended to correct minor editorial problems and to consistently identify reference numerals that correspond with those used in the drawing.

In amended Figures 3 and 4, the reference numerals were amended to render them consistent with the specification. The drawings were objected to as failing to comply with 37 CFR 1.84(p)(4) because the reference numeral "6" is used to designate both the chamber and liner on pages 5 and 9 respectively. In response, pages 9 and 10 were amended to assign reference numeral "18" to the liner. This assignment necessitated amendment of Fig. 4 to designate the reference numeral as "18" to be consistent. Since reference numeral "18" had previously been assigned to the coiled chamber referred to on page 7, its reference numeral was changed to "19" to ensure uniqueness. This change required revision of Fig. 3 accordingly to be consistent.

The wording of claims 20 and 24 are drafted in accordance with the specification. A first preferred embodiment is disclosed on page 5, wherein the lower portion of the chamber is heated to a temperature (e.g., T2), while the upper portion of the chamber is "preferably cooled or at least not heated", i.e., it has a lower temperature (e.g., T1) than said upper portion (T2>T1). Page 10 lines 1-7 of the specification establishes that the heating element is positioned towards the base of the chamber in order to achieve the maximum heating effect, while the upper portion of the same above this zone (that is, in the upper portion of the chamber) are operating at a temperature only in sufficient measure to create a "cushioning" effect to guarantee the maintenance of a liquid band state. Therefore, the description teaches both on page 5 and page 10 that the upper portion of the chamber should have a temperature (T1) lower than the temperature of the lower portion of the chamber T2, i.e., T2>T1.

Claims 1-24 remain in this application.

Claims 20 and 24 were rejected under 35 USC 112, second paragraph because its recitation is inconsistent with the specification on page 5 in which it is written that the upper portion is cooled or at least not heated. In response, claims 20 and 24 were amended based on the subject matter of claim 16. Claim 16 was amended to clarify the relative term "lower" by identifying the comparison that renders the temperature lower and to change "the restriction" to "a restriction" to overcome the antecedent basis problem. Claim 22 was amended to change "then" to "than" and thereby overcome its objection.

Claims 1-9, 10, 12, 13, 14, 16, 17-19 and 21-23 were rejected under 35 USC 103(a) over Grob (Injection techniques in capillary GC) in view of Grob (WO 01/33209). This rejection is traversed.

In response, a verified English translation of the priority document is submitted to antedate the publication date of Grob (WO 01/33209), which is now disqualified from being

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treated as prior art. Withdrawal of this rejection is now warranted and requested. WO 01/33209 has a publication date of May 10, 2001, which is after the July 19, 2000 filing date of the Italian priority document MI2000A001634 for the present application.

Claims 11 and 15 were rejected under 35 USC 103(a) as being unpatentable over Grob (Injection techniques in capillary GC) in view of Sasano et al. This rejection is traversed.

The rejection is not fully understood. Claims 11 and 15 are dependent claims that depend from independent claim 1. In rejecting claim 1, the examiner pointed out the deficiency in Grob and explained why it would be necessary to rely on Grob (WO 01/33209) to make up for such a deficiency. However, the rejection of claims 11 and 15 do not rely on Grob (WO 01/33209) and the patent examiner does not identify any location in Sasano et al. that teaches what is lacking in Grob that the patent examiner found in Grob (WO 01/33209). Thus, the rejection warrants withdrawal without further analysis because no *prima facie* case has been made. Assuming the rejection inadvertently omitted rejecting the claims in further view of Grob (WO 01/33209), then Grob (WO 01/33209) is disqualified from being treated as prior art in view of the verified English translation of the priority document.

As concerns the proposed modification of Grob by Sasano et al, Sasano fails to mention that using a chamber made of metal would make it easier to heat or cool the chamber and thus it provides no such motivation to a person of ordinary skill in the art to use metal. As concerns connecting a restriction to an upper portion of the chamber by a funneled wall, Sasano fails to mention that a funneled wall makes for easier flow and thus it provides no such motivation to a person of ordinary skill in the art to modify Grob with a funneled wall.

The Remarks at the bottom of page 14 of the last amendment do not state that the teachings of Grob et al. and Sasano et al. lead to the subject matter of the amended claims. The words "Not even" are at the beginning of that sentence. The Examiner's confusion is not understood.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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Attachments